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September 14, 2001

Andrew Boyd
Assistant Regional Counsel (ORC-158)
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

Re: Astaris Pocatello, Idaho facility
Management of decontamination water to be generated during closure of Anderson Filter Media Washing Unit

Dear Mr. Boyd:

The Shoshone-Bannock Tribes in a memorandum dated August 30, 2001 provided comments regarding the closure plan for the Andersen Filter Media ("AFM") Washing Station at the Astaris Pocatello facility. One of the Tribe's comments related to Section 4.6.1 of the closure plan, which states that decontamination water generated during the unit closure would be directed to Tank V-3600 and then to Pond 18. The Tribes commented that "[t]he current case-by-case extension for continued use of Pond 18 does not include AFM Washing Unit decontamination water."

This comment is incorrect in two respects. First, the LDR case-by-case extensions ("CBCs") that have been granted for the Pocatello facility apply to the facility waste streams rather than to particular MTR impoundments at the facility. The Pocatello plant has directed wastes not only to Pond 18 but also to Ponds 17 and 16S under the authority of the CBCs. The CBCs have not been limited to Pond 18.

Second, the decontamination water that will be generated during the AFM Washing Unit closure is within the waste streams covered by CBC and the National Capacity Variance (NCV) upon which it was based. The following is a brief chronology of the Phase IV LDR rulemaking related to the NCV and the two subsequent CBCs that establish the scope of the extension.

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January 25, 1996 (61 FR 2338)

EPA issues Supplemental Proposed Phase IV LDR rule proposing LDR treatment standards for formerly Bevill-exempt mineral processing wastes.

May 10, 1996 (61 FR 21418)

EPA issues Notice of Data Availability regarding proposed supplemental Phase IV rule, referring to possible need for treatment capacity variance for process wastes generated by FMC Pocatello plant.

August 21, 1996

FMC submits comments to EPA requesting 2-year NCV for Medusa Scrubber Blowdown, Andersen Filter Media rinseate, and Furnace Building Washdown.

May 12, 1997 (62 FR 26041)

EPA issues Second Supplemental Proposed Phase IV rule regarding LDR treatment standards for metals in mineral processing wastes, and proposes granting two-year NCV for the three waste streams identified by FMC.

August 12, 1997

FMC provides comments on Second Supplemental Proposed Phase IV rule, and changes its NCV request to delete one waste stream (AFM rinseate, since the AFM washing unit was taken out of service in 1995 and that waste stream was no longer being generated) and add three other streams that constitute non-wastewaters (Precipitator Slurry, NOSAP Slurry and Phossy Water).

November 10, 1997 (62 FR 60465)

EPA Notice of Data Availability requesting public comment on information FMC submitted on August 12, 1997 expanding NCV request to include three additional waste streams.

May 26, 1998 (63 FR 28556)

EPA issues Final Rule establishing LDR treatment standards for mineral processing wastes. Final Rule includes two-year NCV for the ongoing Pocatello plant waste streams as requested by FMC, consisting of the following:

1. Medusa Scrubber Blowdown

2. Furnace Building Washdown
3. NOSAP Slurry
4. Precipitator Slurry
5. Phossy Water

July 12, 1999

FMC submits request for one-year extension to LDR requirements under the case-by-case extension procedures at 40 C.F.R. §268.5, for the same waste streams covered by the NCV.

March 8, 2000 (65 FR 12233)

EPA proposes to approve one-year CBC extension for all the waste streams covered by the NCV.

May 31, 2000 (65 FR 34694)

EPA approves one-year CBC extension for the Pocatello waste steams included in the NCV.

November 1, 2000

Astaris submits request for second 1-year CBC extension for the Pocatello waste streams.

March 16, 2001 (66 FR 15243)

EPA proposes to approve second 1-year CBC extension.

April 24, 2001 (66 FR 20656)

EPA issues Notice of Data Availability regarding Astaris application for second CBC extension.

May 21, 2001 (66 FR 27961)

EPA approves second CBC extension for Pocatello plant wastes.

Both CBC extensions, like the NCV upon which they were based, were broad in scope and covered all the newly identified mineral processing wastes addressed by the May 1998 Phase IV rule. As stated in the EPA decision granting the second CBC:

> On May 26, 1998 (63 FR 28556), EPA finalized the Final LDR Phase IV rule, which **granted a two-year national capacity variance for newly identified characteristic wastes from elemental phosphorus processing.** This national capacity variance covered the five waste streams generated at the Pocatello facility, and extended the LDR effective date for these wastes to May 26, 2000.

66 FR 27962 (May 21, 2001) (emphasis added).

The statement that the NCV was "granted. . . for newly identified characteristic wastes" at the Pocatello plant establishes that the NCV and CBCs have the same scope as the Phase IV rule itself and cover all the Pocatello wastes that otherwise would be subject to that rule. This is confirmed in the preamble to the Phase IV rule, where EPA stated that "[t]he Agency has decided to grant a two-year capacity variance for all five FMC wastestreams." 63 FR 28625 (May 26, 1998).

The decontamination water to be generated by the AFM Washing Unit closure is potentially subject to LDR requirements only by force of the Phase IV rule. Any hazardous characteristic the water exhibits would be caused entirely by waste constituents from the phosphorus production process. Since this process waste categorically is within the scope of the NCV and CBC the decontamination water similarly is covered by these extensions.

Based on the above analysis it is not necessary to place the AFM unit decontamination water within any of the five waste categories specifically listed in the NCV and the CBC, since these categories comprise all the mineral processing wastes generated at the Pocatello plant and it is only this covered waste that would make the water potentially subject to LDRs. Nevertheless the decontamination water also fits within one or more of the five listed categories.

The category that the water most readily fits is that of Furnace Building Washdown. This is a broad category that means any wastewater generated within the furnace building that is collected in the furnace building sumps and then routed to Tank V-3600 for disposal. The EPA proposal for the second CBC defines this category as follows: "*Furnace Building Washdown*: water collected in four sumps from numerous sources within the furnace building." 66 FR 15247 (March 16, 2001). This broad definition is consistent with the November 1, 2000 Astaris application for the second CBC extension. Section 4 of that application states that "Furnace Building Washdown is a generic name for numerous sources of water used in the furnace building and collected in four sumps beneath the phosphorus process equipment." The AFM Washing Unit is located within the Furnace Building. The water generated from decontamination of this unit will be collected in the nearest furnace building sump, directed by existing piping to Tank V-3600 and then sent to Pond 18. See Section 4.6.1 of the proposed AFM Washing Unit closure plan. The decontamination water will have a composition similar to the wastewater generated from routine maintenance

operations at the furnace building. The water therefore is within the category of Furnace Building Washdown and for this additional reason is covered by the CBC.

Astaris and FMC hope that the above information is useful to EPA in its review of the Tribal comment regarding inclusion of the AFM decontamination water within the CBC. Please contact me if you have any questions or comments.

Very truly yours,

David M. Heineck

David M. Heineck

cc: Bill Kline
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